HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)
Description of the case.

WPSS No. 238/2006

Karunesh Joshi

Vs

State of Uttaranchal

Approved for reporting.

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Not approved for reporting

Date of decision 28.2.2006

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Civil Writ Petition No. 238 of 2006 (S/S)

Karunesh Joshi, S/o Sri Tara Dutt Joshi, R/o 6-95/2 Nawabi Road, Haldwani, District Nainital.

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Petitioner.

Versus

1- State of Uttaranchal through Secretary, Department of Personnel, Uttaranchal Dehradun.
2- District Magistrate, Nainital District Nainital.

……. Respondents.

Sri Sudhir Singh, learned counsel for the petitioner.
Learned standing Counsel for respondents.

HON'BLE RAJESH TANDON. J.
28.02.2006

Heard Sri Sudhir Singh, learned counsel for the petitioner and learned Standing counsel for the respondents. Both the parties submitted that the petition may be disposed of at the admission state.

By the present writ petition the petitioner has prayed for a writ of mandamus directing the respondents to include the name of the petitioner in the list of the persons injured during the Uttarakhand Agitation.

Briefly stated, the petitioner is a permanent resident of Nawabi Road, Haldwani and was an active participant in the Uttaranchal agitation held by the

people of Uttaranchal demanding the creation of present State. During the Uttaranchal Agitation several persons who have taken part in the same were either arrested or were injured in the 'lathi charge' by the police several times. The petitioner also participated in the Uttaranchal Agitation and was also lathi charged by the police. As a result of the said lathi charge, the petitioner was seriously injured and was under the treatment of Dr. P.C. Harbola.

The petitioner has submitted that the Uttaranchal Government has passed a Government Order dated 11th August, 2004, in which it is stated that all the persons who were injured or were in jail for 7 days or more, would be provided appointment on the post of Group 'C' and 'D' Grade as per there educational qualification. The same is quoted below:

''कार्मिक अनुभाग–2 देहरादून दि0 11 अगस्त 2004

विपयः उत्तराखण्ड राज्य आन्दोलन के दौरान घायल/जेल गये आन्दोलनकारियों को सेवायोजन प्रदान किये जाने के सम्बन्ध में ।

महोदय,

उपर्युक्त विपय पर मुझे यह कहने का निदे ा हुआ है कि उत्तराखण्ड राज्य आन्दोलन के दौरान घायल हुए/जेल गये आन्दोलनकारियों को विभिन्न विभागो के अर्न्तगत सेवायोजित किये जाने के सम्बन्ध में भाासन द्वारा यह निर्णय

लिया गया है कि उत्तरखण्ड राज्य आन्दोलन के दौरान घायल हुए आन्दोलनकारियों तथा सात दिन या उससे अधिक अवधि के लिये जेल भेजे गये आन्दोलनकारियों जिनकी उत्तराखण्ड राज्य आन्दोलन के दौरान घायल होने और सात दिन या उससे अधिक अवधि के लिय जेल जाने के पुष्टि समस्त अभिलेखों से समुचित रूप से कर ली गयी हो, को विभिन्न विभागों के अर्न्तगत लोक सेवा आयोग की परिधि से बाहर के समूह ग के पदो पर तथा समूह घ के पदों पर उनकी भौक्षिक योग्यता के अनुसार नियुक्या प्रदान कर दी जाये । ऐसी नियुक्तियों के सम्बन्ध में सम्बन्धित जिलाधिकारियों द्वारा जिले में समस्त विभागों में उपलब्ध रिक्त पदों का चिन्हान्कन करने के प चात आन्दोलनकारियो की भौक्षिक योग्यता के चिन्हान्कन करने के प चात आन्दोलनकारियों की भौक्षिक योग्यता के अनुसार उन्हे सूचीबद्ध करते हुए उनकी नियुक्ति के सम्बन्ध में सम्बन्धित नियुक्ति प्राधिकारी को नियुक्ति की कार्यवाही करने हेतु निर्दे ा भेजे जायेगे तथा उसकी सूचना भाासन को उपलब्ध करायी जायेगी । यह कार्यवाही आन्दोलनकारी की घायल अथवा जेल जाने की भाासकीय अभिलेखो से समुचित पुष्टि करने के प चात की जायेगी ।

2.मुझे यह भी कहने का निदे ा हुआ है कि उपर्यूक्त निर्णय के अनुसार सेवायोजन किये जाने के उद्दे य से समस्त सेवा नियमावली के अन्तर्गत सीधी भर्ती द्वारा नियुक्ति दिये जाने की आयु सीमा एवं चयन की प्रक्रिया को एक बार के लिये ि ाथिलता प्रदान की जाती है।

3.आपसे अनुरोध है कि कृप्या उपर्युक्त निर्णय के अनुसार तत्काल कार्यवाही करते हुए कृत कार्यवाही से भाासन को अवगत कराने का कष्ट करे ।

भवदीय,

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(नृप सिंह नपलच्याल)

प्रमुख सचिव

The Governor of State of U.P. called a meeting of Commissioners of Kumaon & Garhwal Region whereby it was decided that all the District Collectors shall prepare the list of the persons who have taken part in Uttarakhand Agitation and the same shall be forwarded tro the Commissioners of their respective regions. In the said meeting it was also decided that the persons who were injured in the police lathi charge but their names are not available in police records and they have taken medical treatment in private hospitals or at home shall also be included in the list of injured persons.

The grievance of the petitioner is that he has already made a representation on 29.11.2004 in pursuance of the Government order dated 11.08.2004. The said representation has not been decided.

In view of above, liberty is given to the petitioner to approach the Authority, respondent no.1 within a period of two weeks in accordance with the Government order dated 11.08.2004. The respondents are to consider the representation of the

petitioner within a period of six weeks from the date of filing of the certified copy of the order.

Subject to above observations, the writ petition is disposed of. No order as to costs.

(Rajesh Tandon. J)

28.02.2006.
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